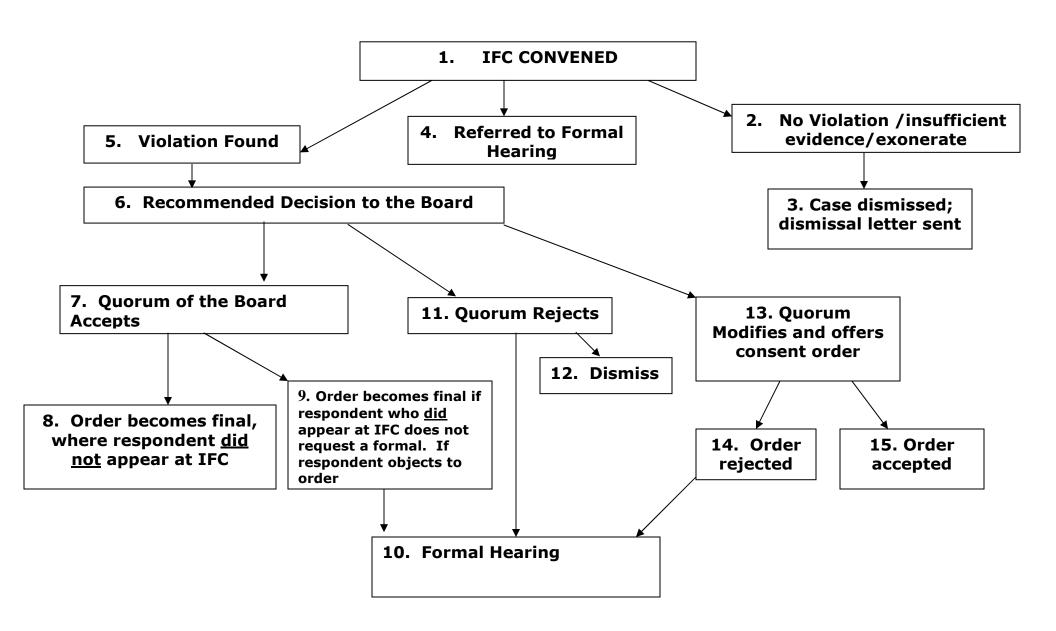
Guidance for Conduct of an Informal Conference by an Agency Subordinate of a Health Regulatory Board at the Department of Health Professions



Guidance document: 115-4.12 November 5, 2004

Board of Counseling

Narrative explanation of Flow Chart on Delegation to an Agency Subordinate

This describes the process in which a subordinate hears a case at an informal conference up to a case that may be referred to a formal hearing.

- 1. Pursuant to a notice, the designated agency subordinate ("subordinate") will convene the informal conference ("IFC"). An IFC before a subordinate is conducted in the same manner as an IFC before a committee of the board. Following the presentation of information by the parties, the subordinate will consider the evidence presented and render a recommended decision regarding the findings of fact, conclusions of law, and if appropriate, the sanction to be imposed.
- 2. The subordinate may recommend that the respondent be exonerated, that there be a finding of no violation, or that insufficient evidence exists to determine that a statutory and/or regulatory violation has occurred.
 - **3.** If the subordinate makes such a finding, the case is dismissed and a dismissal letter is issued to the respondent notifying him of the determination.
- **4.** The subordinate may decide that the case should be referred to a formal hearing. A hearing before the board would then be scheduled and notice sent to the respondent.
- **5.** The subordinate may determine that a violation has occurred and recommend the findings of fact and conclusions of law along with an appropriate sanction.
 - **6.** With the assistance of APD, the subordinate drafts a recommended decision, which includes the findings of fact, conclusions of law and sanction. The recommendation is provided to the respondent and to the board and must be ratified by a quorum of the board.
- **7.** If a quorum of the board accepts the recommended decision and:
 - **8.** If the respondent <u>did not appear</u> at the IFC, the board's decision becomes a final order that can only be appealed to a circuit court; or
 - **9-10.** If the respondent <u>did appear</u> at the IFC and objects to the order, he may request a

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formal hearing before the board. A case referred to a formal hearing proceeds in the same manner as cases considered by special conference committees convened pursuant to Va. Code § 54.1-2400(10). If the respondent who appeared at the IFC does not request a formal hearing, the order becomes final after a specified timeframe.

11. A quorum of the board may reject the recommended decision of the subordinate, in which case:

The board may decide to refer the case for a formal hearing (10); or the board may decide to dismiss the case and a dismissal letter is issued to the respondent notifying him of the decision of the board (12).

13. A quorum of the board may modify the subordinate's recommended decision, and a consent order reflecting the modified decision is presented to the respondent:

If the respondent accepts the consent order, it is duly entered (15); or if the respondent rejects the consent order (14), the case proceeds to a formal hearing before the board (10).